

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
                                )  
                                )  
Plaintiff,                 )  
                                )  
v.                            ) Criminal Action No.  
                                )  
                                07-00312-01-CR-W-GAF  
KIMBERLY THOMPSON MCKAY, )  
                                )  
                                )  
Defendant.                 )

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on May 7, 2008. Defendant Kimberly McKay appeared in person and with Assistant Federal Public Defender Steve Moss. The United States of America appeared by Assistant United States Attorney Daniel Nelson.

***I. BACKGROUND***

On September 11, 2007, an indictment was returned charging defendant with two counts of identity theft, in violation of 18 U.S.C. § 1028(a)(7); one count of access device fraud, in violation of 18 U.S.C. § 1029(a)(5); one count of wire fraud, in violation of 18 U.S.C. § 1343; and one count of aggravated identity theft, in violation of 18 U.S.C. § 1028A.

The following matters were discussed and action taken during the pretrial conference:

## ***II. TRIAL COUNSEL***

Mr. Nelson announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Paul Mazzanotte, Postal Inspector.

Mr. Moss announced that he will be the trial counsel for defendant Kimberly McKay.

## ***III. OUTSTANDING MOTIONS***

There are no pending motions in this case.

## ***IV. TRIAL WITNESSES***

Mr. Nelson announced that the government intends to call 25 witnesses without stipulations or 20 witnesses with stipulations during the trial.

Mr. Moss announced that defendant Kimberly McKay intends to call 5 witnesses during the trial. The defendant may testify.

## ***V. TRIAL EXHIBITS***

Mr. Nelson announced that the government will offer approximately 400 exhibits in evidence during the trial.

Mr. Moss announced that defendant Kimberly McKay will offer approximately 10 exhibits in evidence during the trial.

## ***VI. DEFENSES***

Mr. Moss announced that defendant Kimberly McKay will rely on the defense of general denial.

## ***VII. POSSIBLE DISPOSITION***

Mr. Moss stated this case is probable not for trial.

## **VIII. STIPULATIONS**

Stipulations are likely as to chain of custody and business records.

## **IX. TRIAL TIME**

Counsel were in agreement that this case will take 3 days to try.

## **X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS**

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed October 23, 2007, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by May 7, 2008;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, May 14, 2008;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, May 14, 2008. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

## **XI. UNUSUAL QUESTIONS OF LAW**

No motions in limine are anticipated. There are no unusual questions of law.

## **XII. TRIAL SETTING**

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on May 19, 2008.

/s/ Robert E. Larsen  
ROBERT E. LARSEN  
U. S. Magistrate Judge

Kansas City, Missouri  
May 7, 2008

cc: The Honorable Gary Fenner  
Mr. Daniel Nelson  
Mr. Steve Moss  
Mr. Jeff Burkholder